

HOUSE BILL NO. 634

INTRODUCED BY MCALPIN, MCCHESENEY, VAN DYK, VILLA, SANDS, AUGARE, WISEMAN, MALEK,
STEENSON, P. NOONAN, FUREY, POMNICHOWSKI, CAFERRO, MCCLAFFERTY, MACDONALD,
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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE TRANSPORTATION OF INDIVIDUALS WHO
MAY BE SUFFERING FROM MENTAL ILLNESS TO THE STATE HOSPITAL FOR INVOLUNTARY
COMMITMENT OR TREATMENT; ALLOCATING COSTS; REQUIRING THE DEPARTMENT OF PUBLIC
HEALTH AND HUMAN SERVICES TO ADOPT RULES AND PROVIDE A REPORT; CREATING A STATE
SPECIAL REVENUE ACCOUNT; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 7-32-2144 AND
53-21-132, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Transportation of individuals for involuntary commitment or treatment to state hospital. (1) The department shall develop and implement or contract for services to provide transportation to and from the state hospital for individuals who need to be involuntarily committed to or treated by the state hospital pursuant to the provisions contained in Title 53, chapter 21. A COUNTY MAY CHOOSE TO NOT USE THE SERVICES.

(2) (a) Transportation may be provided only for those individuals who have no personal means of transportation to or from the state hospital.

(b) The provisions of this section do not apply to transportation costs of individuals who are voluntarily admitted to a mental health facility under Title 53, chapter 21, or of individuals who are to be admitted to the state hospital pursuant to Title 46.

(3) The transportation service provided for in subsection (1) must include provisions for:

(a) the procurement and use of vehicles suited for the purposes of the service;

(b) the qualifications, training, and safety of individuals providing the service and the safety and dignity of individuals transported by the service;

(c) a written policy for the use of mechanical or medical restraints that provides for the restraint of individuals being transported only for those situations in which the safety of the individuals being transported or

1 providing the transportation clearly requires the use of restraints;

2 (d) discharge planning that is coordinated with the transportation of individuals who are to be released
3 from the state hospital; and

4 (e) the payment BY A COUNTY of fees, commensurate with costs, for services ~~by counties~~ PROVIDED:

5 (i) ~~to BY the department to be deposited in the account provided for in [section 4] if~~ WHEN the county is
6 seeking the involuntary commitment or treatment of the individual at the state hospital; ~~or, THE FEES MUST BE~~
7 DEPOSITED IN THE ACCOUNT PROVIDED FOR IN [SECTION 4].

8 (ii) ~~to the~~ BY A county containing a regional medical center if it provides for transportation to the state
9 hospital under this section.

10 (4) If restraints are used while an individual is being transported to the state hospital, the individual must
11 be given a physical examination upon arrival at the state hospital to determine whether any injury to the individual
12 has occurred during the period of transportation.

13 (5) If an individual cannot for any reason be transported by the service provided pursuant to this section
14 OR IF A COUNTY CHOOSES TO NOT USE THE SERVICE, a sheriff may be used by the county seeking the involuntary
15 commitment or treatment of the individual under the provisions contained in 7-32-2144.

16 (6) The department shall adopt rules to implement this section.

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18 **Section 2.** Section 7-32-2144, MCA, is amended to read:

19 **"7-32-2144. Mileage and expenses of sheriff for delivery of prisoners and mentally ill persons. (1)**

20 A Subject to the provisions of [section 1], a sheriff delivering prisoners at the state prison or a juvenile correctional
21 facility or mentally ill persons at the Montana state hospital or other mental health facility is entitled to actual
22 expenses necessarily incurred in their transportation. The expenses include the expenses of the sheriff in going
23 to and returning from the institution. The sheriff shall take vouchers for every item of expense. The amount of
24 these expenses, as shown by the vouchers when presented by the sheriff, must be audited and allowed by the
25 governor or by the board of county commissioners, as the case may be, and paid out of the same money and
26 in the same manner as are other expense claims against the state or counties. No other compensation may be
27 received by sheriffs for the expenses.

28 (2) Unless otherwise provided, while in the discharge of civil and criminal duties, the sheriff is entitled
29 to a mileage allowance, as provided in 2-18-503. The sheriff must also be reimbursed for actual and necessarily
30 incurred expenses for transporting, lodging, and feeding persons ordered by the court, as provided in 2-18-501

1 through 2-18-503. The county is not liable for and the board of county commissioners may not pay for any claim
2 of the sheriff or other officer for any other expenses incurred in travel or for expenses in cases for which mileage
3 is allowed under this section."

4
5 **Section 3.** Section 53-21-132, MCA, is amended to read:

6 **"53-21-132. Cost of examination and commitment.** (1) ~~(a) The~~ Except as provided in subsection
7 (1)(b), the cost of psychiatric precommitment examination, detention, treatment, and ~~taking~~ transportation of a
8 person who is suffering from a mental disorder and who requires commitment to a mental health facility must be
9 paid pursuant to subsection (2)(a).

10 (b) Transportation costs to the state hospital for involuntary commitment or treatment must be covered
11 as provided in [section 1].

12 (c) ~~The~~ A sheriff transporting persons pursuant to 7-32-2144 must be allowed the actual expenses
13 incurred in taking a committed person to the facility, as provided by 7-32-2144.

14 (2) (a) The costs of precommitment psychiatric detention, precommitment psychiatric examination, and
15 precommitment psychiatric treatment of the respondent and any cost associated with testimony during an
16 involuntary commitment proceeding by a professional person acting pursuant to 53-21-123 must be billed to the
17 following entities in the listed order of priority:

18 (i) the respondent, the parent or guardian of a respondent who is a minor, or the respondent's private
19 insurance carrier, if any;

20 (ii) a public assistance program, such as medicaid, for a qualifying respondent; or

21 (iii) the county of residence of the respondent in an amount not to exceed the amount paid for the service
22 by a public assistance program.

23 (b) The county of residence is not required to pay costs of treatment and custody of the respondent after
24 the respondent is committed pursuant to this part. Precommitment costs related to the use of two-way electronic
25 audio-video communication in the county of commitment must be paid by the county in which the person resides
26 at the time that the person is committed. The costs of the use of two-way electronic audio-video communication
27 from the state hospital for a patient who is under a voluntary or involuntary commitment to the state hospital must
28 be paid by the state. The fact that a person is examined, hospitalized, or receives medical, psychological, or other
29 mental health treatment pursuant to this part does not relieve a third party from a contractual obligation to pay
30 for the cost of the examination, hospitalization, or treatment.

(3) The adult respondent or the parent or guardian of a minor shall pay the cost of treatment and custody ordered pursuant to 53-21-127, except to the extent that the adult or minor is eligible for public mental health program funds.

(4) A community service provider that is a private, nonpublic provider may not be required to treat or treat without compensation a person who has been committed."

NEW SECTION. Section 4. Transportation for involuntary commitment or treatment account.

There is a transportation for involuntary commitment or treatment account in the state special revenue ~~reserve~~ fund. The account must be used to lower transportation costs for counties seeking the involuntary commitment or treatment of an individual. Money is payable into the account as provided in [section 1]. Income and earnings on the account must be deposited in the account. The account must be administered by the department.

NEW SECTION. SECTION 5. REPORT TO LEGISLATURE. (1) THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES SHALL PROVIDE REGULAR INTERIM REPORTS ON THE STATUS OF THE PROGRAM AND PROGRAM EXPENDITURES TO THE LEGISLATIVE FINANCE COMMITTEE AND THE CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE.

(2) THE DEPARTMENT SHALL REPORT TO THE LEGISLATURE, AS PROVIDED FOR IN 5-11-210, THE FOLLOWING INFORMATION FOR THE PROGRAM ESTABLISHED IN [SECTION 1] FOR EACH YEAR OF THE BIENNIUM:

(A) THE NUMBER OF INDIVIDUALS TRANSPORTED BY THE PROGRAM, BY COUNTY;

(B) THE COSTS TO THE DEPARTMENT FOR THE PROGRAM;

(C) THE AMOUNT OF FEES PAID BY COUNTIES TO THE STATE;

(D) THE AMOUNT, IF ANY, COLLECTED FROM THIRD-PARTY PAYORS FOR TRANSPORTATION COSTS; AND

(E) THE NUMBER OF TIMES RESTRAINTS WERE USED WHEN TRANSPORTING INDIVIDUALS AND THE REASONS WHY RESTRAINTS WERE USED.

NEW SECTION. Section 6. Appropriation. There is appropriated \$750,000 for each fiscal year of the biennium beginning July 1, 2009, from the state special revenue account created in [section 4] to the department for the purposes described in [section 1].

NEW SECTION. Section 7. Codification instruction. [Sections 1 and 4] are intended to be codified

1 as an integral part of Title 53, chapter 21, and the provisions of Title 53, chapter 21, apply to [sections 1 and 4].

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3 NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 2009.

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5 NEW SECTION. SECTION 9. TERMINATION. [THIS ACT] TERMINATES JUNE 30, 2011.

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